

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:10cv076**

**JULI ANN O. NISHIMUTA,**

**Plaintiff,**

**vs.**

**KATHLEEN SEBELIUS,  
et al.,**

**Defendants.**

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**ORDER**

**THIS MATTER** is before the Court on the Defendants' Motion to Dismiss Improper Defendants. [Doc. 9].

Plaintiff appears pro se in this matter, and Defendants do not report consultation with her regarding this Motion.

Defendants cite deficiencies in Plaintiff's Complaint, namely her naming as Defendants in this matter Edward R. Ryan (former Acting United States Attorney for the Western District of North Carolina) and Eric Holder, Attorney General of the United States. Defendants assert that these are improper defendants under 42 U.S.C. § 1395w-22(g)(5) and 42 U.S.C. 405(g), because they permit judicial review to be sought only against the Secretary of Health and Human Services.

Defendant's assertion about the statutes' limitation on the proper party to be sued is well-taken. Dismissal shall be granted as to defendants Holder and Ryan.

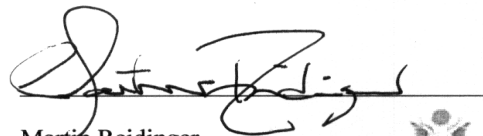
The Court notes that Plaintiff's complaint additionally and properly names, and the Plaintiff has successfully served, the correct party. Defendants do not seek to disturb that status. Therefore, this action will go forward as against the Secretary of Health and Human Services.

For good cause shown,

**IT IS, THEREFORE, ORDERED** that this action is dismissed as against defendants Holder and Ryan only.

**IT IS SO ORDERED.**

Signed: July 13, 2010

  
Martin Reidinger  
United States District Judge

